

Serial No. 09/917,792
Atty. Docket No. 50442.010200
Response to non-final Office Action mailed September 15, 2004

REMARKS

Claims 1-25 were pending in the present application. Claims 1, 12, 14-16, and 18-21 have been amended to improve clarity. Specifically, “advertising” has been changed to “advertising content” and “content” has been changed to “show content,” to make the claims more consistent with the disclosure in paragraph [00101] of “show content questions” and “ad content questions.” Claims 13, 17-19, and 22-24 have been amended to correct minor errors. Claim 25 has been cancelled without prejudice toward pursuing the subject matter thereof in a related application; new claim 26 has been added. Support for new claim 26 may be found, *inter alia*, in paragraphs [0037] and [0038]. Therefore, claims 1-24 and 26 are now pending in the present application.

Claim Objections

Dependent claims 13, 17-19 and 22-24 are objected to because of a minor typographical error. Claims 13, 17-19, and 22-24 have been amended to overcome these objections.

Claim Rejections

Claims 1-25 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,759,101 to Von Kohorn (hereafter “Von Kohorn”). Applicants respectfully traverse the rejections for at least the following reasons.

The present invention is aimed at the need to “measure the *effectiveness* of [advertisers’] ads in the context of the programs in which they are aired” and to obtain “accurate, continuous data on the *performance* of ads.” (Emphasis added, paragraphs [0005]

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and [0006].) One disclosed method for satisfying these needs, disclosed, e.g., in paragraphs [00100] to [00116] of the present application, is to entice viewers of a broadcast show to complete a survey by offering incentives, such as proprietary currency redeemable for prizes, for participation in the survey and for correctly answering survey questions. First and second sets of trivia questions relating to advertising content and show content, respectively, are stored in a computer system and are associated with the broadcast/show. Then, a subset of the first and second trivia questions are asked to a member and the responses are compiled in a reporting structure by which clients may analyze their ads' effectiveness. See, e.g., paragraph [00129].

Von Kohorn discloses a method of allowing interaction by a remote audience in a broadcast, such as a game show, an instructional broadcast, a public survey, or a sports gaming broadcast. Col. 1, line 23 to col. 2, line 59. Von Kohorn identifies the problem to be solved as “such programs should be open to participation by the larger external audience in addition to the studio audience; yet no system providing for such participation has been available.” Col. 2, lines 2-5. One application of Von Kohorn would be, e.g., the ability of a member of the larger external audience to participate as a contestant on *The Price is Right*, and to subsequently win a prize redeemable in the form of a coupon based on correct answers remotely transmitted. Col. 5, lines 38-52. In sharp contrast to the present invention, Von Kohorn has absolutely nothing to do with increasing the effectiveness of advertising or determining advertising performance. In fact, the only disclosed relevance of advertising in Von Kohorn is that the method could *include* advertising. For example, col. 2, lines 19-23 disclose that a prize (that may be won,

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e.g., by correctly answering questions remotely to a game show) may be redeemed by presenting a coded credit card to a store, which “would be a great convenience in the implementation of a sales and advertising program.” Other examples are that “commercials may be aired” during a broadcast program (col. 3, lines 44-46) and that an interactive game show may advertise products (col. 5, lines 43-52). However, these brief references to advertising have nothing to do with the present invention’s aim of increasing the effectiveness of advertising.

Specifically, claim 1 of the present application recites storing in a computer system a first set of trivia questions relating to advertising content *and* storing in the computer system a second set of trivia questions relating to show content. Von Kohorn does not disclose, teach or suggest these features. Von Kohorn discloses that two groups of signals are broadcast: a first signal that includes the program signal itself as well as “a signal transmission setting forth a task, such as the answering of one or more questions which may be viewed on a television screen”; and a second signal that includes the desired acceptable answer(s) and the mode of scoring responses. Col. 2, line 60 to col. 3, line 7. At best, Von Kohorn discloses storing only a *single set of questions*, not a first set relating to advertising content *and* a second set relating to show content.

Next, because Van Kohorn does not disclose storing a first set of questions relating to advertising content *and* a second set relating to show content, it also fails to disclose, teach or suggest selecting a subset of said first *and* second trivia questions, as recited in claim 1.

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Further, claim 1 of the present application recites associating said first and second sets of trivia questions with a broadcast of the advertising content along with the show content. This aspect of the invention of claim 1 assures that the surveyed member is being asked trivia questions regarding advertising content that corresponds to the show content which he viewed—i.e., this feature assures that the right questions are asked of the right people. Of course, because Von Kohorn is not concerned with increasing the effectiveness of advertising, Von Kohorn has no need for (and indeed does not disclose, teach or suggest) associating sets of trivia questions relating to *advertising content and show content* with a broadcast of the *advertising content along with the show content*.

It is well established that, in order to show obviousness, all limitations must be taught or suggested by the prior art. In Re Boyka, 180 U.S.P.Q. 580, 490 F.2d 981 (CCPA 1974); MPEP § 2143.03. It is error to ignore specific limitations distinguishing over the references. In Re Boe, 184 U.S.P.Q. 38, 505 F.2d 1297 (CCPA 1974); In Re Saether, 181 U.S.P.Q. 36, 492 F.2d 849 (CCPA 1974); In Re Glass, 176 U.S.P.Q. 489, 472 F.2d 1388 (CCPA 1973).

Because claim 1 recites several elements that Von Kohorn fails to teach or suggest, claim 1, and dependent claims 2-11 and 26, are patentable over Von Kohorn. In particular, Von Kohorn fails to teach or suggest at least the steps of storing in a computer system a first set of trivia questions relating to advertising content and a second set of trivia questions relating to show content, associating the first and second sets of trivia questions with a broadcast of the advertising content along with the show content, and selecting a subset of the first and second trivia questions to ask a member. Withdrawal of the rejections is respectfully requested.

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Further, dependent claims 2-11 contain additional patentable features. For example, claim 6 recites embodiments of the invention wherein the broadcast is a display of multimedia information delivered via an internet connection, and claim 7 recites an embodiment wherein the subset of trivia questions is transmitted to a member via an internet connection. Von Kohorn fails to teach or suggest either embodiment, and is specifically directed to “an instructional signal modulated onto a signal transmitted concurrently with the television program, simulcast, or time-multiplexed with a television.” (Abstract.)

Claims 12-20 are believed to be patentable over Von Kohorn for essentially the same reasons set forth above with respect to claim 1. Withdrawal of the rejections is respectfully requested.

Claim 21 recites using the responses to the set of trivia questions to create a report indicative of at least one broadcast performance factor comprising at least one of recall, understanding, and likeability. Von Kohorn is directed to remote interactions of an external audience in a broadcast, not to the *performance* of the advertising in a broadcast. Therefore, Von Kohorn does not teach or suggest using the responses to the set of trivia questions to create a report indicative of at least one broadcast performance factor. Claim 21, and dependent claims 22-24, are believed to be patentable over Von Kohorn. Withdrawal of the rejections is respectfully requested.

Finally, Applicants note that claims 2-11, 13, 17-19, and 22-24 are rejected at least in part in view of Official Notice that “both the concepts and the advantages of those elements and limitations... not explicitly shown by Von Kohorn were notoriously well known and expected

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in the art at the time of the invention...". Applicants respectfully disagree and request withdrawal of the official notice, or production of prior art references that disclose the features recited in claims 2-11, 13, 17-19, and 22-24, and suggest a motivation to combine with Von Kohorn.

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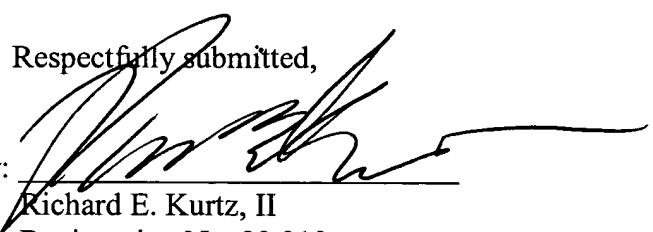
CONCLUSION

Applicants respectfully submit that all of the stated grounds of rejections have been properly traversed or rendered moot and believe that all pending claims 1-24 and 26 are allowable over the prior art of record. Thus, it is believed that the present invention is in condition for allowance, and Notice to that effect is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of the application, he is courteously requested to contact Applicant's undersigned representative.

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Respectfully submitted,

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